IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13749 of 2003

with

SPECIAL CIVIL APPLICATION No 18200 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

C I GURJAR C/O MANTRISHRI

Appearance:

1. Special Civil Application No. 13749 of 2003
   MRS FALGUNI D PATEL for Petitioner
   MS MOHINI BHAVSAR FOR MR BHARAT JANI for Respondent
2. Special Civil Application No. 18200 of 2003
   MS MOHINI BHAVSAR FOR MR BHARAT JANI for Petitioner
   MRS FALGUNI D PATEL for Respondent

CORAM : HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 11/05/2005

COMMON C.A.V. JUDGEMENT

Since in both the petitions, the Judgement and Award dtd.6/3/2003 passed by the learned Industrial Tribunal, Ahmedabad in Reference (IT) No.186 of 2000 is challenged, the same are heard together and disposed by this common judgement.

2. By the impugned judgement and Award dtd.6/3/2003, the Industrial Tribunal, modified the order dtd.5/10/1996 passed by the Corporation from stoppage of four increments of Mr.C.I. Gurjar (Prajapati) with future effect to four increments without future effect and further held that the employee is not entitled to any benefit on the basis of the said Award.

3. Special Civil Application No.13749 of 2003 has been filed by the G.S.R.T.C. and Special Civil Application No.18200 of 2003 has been filed by the Mr.C.I. Gurjar, against the aforesaid judgement and award dtd.6/3/2003.

4. Short facts of the case are such that Mr.Gurjar (hereinafter referred to as "the employee" for conveyance) was working under the G.S.R.T.C. (hereinafter referred to as "the Corporation" for convenience) at Mehsana as Conductor. On 22/2/1995 the employee was on duty on the route of Bapunagar-Kadi to Ahmedabad and the Depot Manager of Kalol inspected the way bill of that day and found that the respondent was guilty of reissuing tickets and thereby, misappropriated money of the Corporation. Thereafter, chargesheet was issued by the Corporation to the employee and subsequently, departmental inquiry was held against the employee. At the end of inquiry, the inquiry officer submitted his report and considering the report of the inquiry officer, the competent authority passed punishment order dtd.14/1/1996, against which the employee had preferred the aforesaid reference, wherein the Industrial Tribunal passed the Award as aforesaid against which both the petitions have been filed.

5. Ms.Falguni Patel, learned counsel for the Corporation - petitioner in Special Civil Application No.13749 of 2003 and respondent in Special Civil Application No.18200 of 2003 has mainly argued that for the misconduct of reissuing tickets, chargesheet was issued to the employee and thereafter, inquiry was held against him. After considering the report of the Inquiry Officer and evidence on record, the competent authority

passed order of punishment dtd.14/1/1996 whereby the employee's four increments were withheld with future effect, against which the employee has preferred first appeal, but the same was dismissed. Against the said order of the first appeal, the employee had also preferred second appeal, but the same was also dismissed. Against the said orders, the employee approached the Industrial Tribunal wherein, the Tribunal modified the punishment of withholding four increments with future effect to four increments without future effect. It is further argued on behalf of the Corporation that the impugned Award is illegal, contrary to the evidence and against the settled law; that the tribunal failed to appreciate that the punishment of four increments with future effect imposed by the competent authority is not harsh in nature, but the same was passed considering all the aspect of the matter including the past record of the employee and hence the tribunal erred in modifying the punishment from stoppage of four increment with future effect to four increment without future effect. Consequently, it is prayed to quash and set aside the impugned Award. She has placed reliance on the decisions reported in on AIR 2003 (SC) 1462 and 2003(2) LLJ 279.

6. On the other hand, Ms.Mohini Bhavsar on behalf of Mr.BG Jani, learned counsel for the employee - C.I. Gurjar - respondent in Special Civil Application No.13749 of 2003 and petitioner in Special Civil Application No.18200 of 2003 has vehemently argued that as there was printing mistake in the tickets, due to his eye problem, the employee could not read the ticket numbers properly at night and in the way bill instead of 523, wrong number 527 was mentioned and thus, as he has not misappropriated any amount, he has not paid Rs.28/being amount of four tickets, each of Rs.7/-; that the bus was not checked; it is not the case of the respondent that the bus was checked and the passengers have given statement that the employee has issued tickets which were issued earlier to other passengers. But the chargesheet was issued later on by depot manager on the basis of way bill prepared by the employee; that the charges levelled against the employee is not proved and the allegation of reissuing the tickets has been made merely on the presumption. It is further argued that in the departmental inquiry the ticket of Rs.7.00 is not produced but the ticket of Rs.4.75 is produced and on perusal of the said ticket, it is clear that there is printing mistake in the tickets. In support of the said contention, attention of this court is drawn to the findings recorded by the Tribunal in the Award. It is argued that though the tribunal has come to the aforesaid conclusion, the tribunal has passed

the impugned award modifying the punishment order from stoppage of four increments with future effect to stoppage of four increments without future effect, instead of quashing and setting aside the punishment order in toto, which is illegal and hence the award qua imposition of punishment is illegal and the same is required to be quashed and set aside.

7. Having heard the learned counsel for the respective parties, considering the material on record and finding of the Industrial Tribunal, it is clear that the competent authority of the respondent imposed punishment of stoppage of four increment with future effect and the Industrial Tribunal has come to the conclusion that there was printing mistake in the tickets and hence the employee has mentioned ticket number as 527 instead of 523. Further, the bus was not checked. It is not the case of the Corporation that, while on checking, the passengers have given statement that the employee has given tickets to the passengers which were issued earlier to the other passengers. But merely on the basis of the way bill prepared by the employee, the proceedings against the employee Mr.Gurjar was initiated. That no oral evidence was lead by the Corporation and no finding for imposition of punishment for stoppage of four increment with future effect has been given by the Corporation. Considering the above peculiar facts and circumstances of the case, I am of the opinion that the punishment awarded by the Industrial Tribunal against the employee Mr.Gurjar is unwarranted and uncalled for and hence the award passed by the Industrial Tribunal is not proper and the same is required to be quashed qua imposition of punishment. The judgements on which the learned counsel Ms.Patel has placed reliance are not applicable considering the peculiar facts and circumstances of the case.

8. In the result, Special Civil Application No.13749 of 2003 is dismissed. Rule is discharged. Interim relief stands vacated. No costs.

9. Special Civil Application No.18200 of 2003 is allowed. Rule is made absolute. The Judgement and Award dtd.6/3/2003 passed by the learned Industrial Tribunal Ahmedabad in Reference (IT) No.186 of 2000 is quashed and set aside qua imposition of punishment of stoppage of four increments without future effect. Consequently, the order of punishment order dtd.5/10/1996 passed by the G.S.R.T.C. against the employee - C.I. Gurjar for stoppage of four increment with future effect, is quashed and set aside. Rule is made absolute to the aforesaid

extent. No order as to costs.

(SHARAD D.DAVE,J.)

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